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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,886	01/18/2001	Brian Keith Schmidt	0007056-0060/P5320/BBC	9319
23879	7590	06/23/2004	EXAMINER	
BRIAN M BERLINER, ESQ O'MELVENY & MYERS, LLP 400 SOUTH HOPE STREET LOS ANGELES, CA 90071-2899			BRUCKART, BENJAMIN R	
			ART UNIT	PAPER NUMBER
			2155	4p

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/765,886

Applicant(s)

SCHMIDT, BRIAN KEITH

Examiner

Benjamin R Bruckart

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Detailed Action***

Claims 1-21 are pending in this Office Action.

***Specification***

The disclosure is objected to because of the following informalities: The second paragraph in the background ART has a blank Application number for a co-pending application.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No 6,363,411 by Dugan et al.**

Regarding claim 1, a method for managing resources for an active computing environment (Dugan: col. 13, lines 20-44, SA does the managing for the NMS defined in col. 12, lines 26-43; col. 6, lines 2-21 defines the environment) comprising:

encapsulating said active computing environment (Dugan: col. 12, lines 51-61; col. 35, lines 26-37);

promoting said active computing environment to a first class object status (Dugan: col. 12, lines 51-61 managed object);

performing a resource management operation on said first class object (Dugan: col. 13, lines 45-61).

Regarding claim 2, the method of claim 1 wherein said resource management operation comprises a guaranteed share of resources (Dugan: col. 11, lines 23-42).

Regarding claim 3, the method of claim 1 wherein said resource management operation comprises a resource management algorithm (Dugan: col. 32, lines 35-54).

Regarding claim 4, the method of claim 1 wherein said resource management operation comprises a restriction of network access on said first class object (Dugan: col. 34, lines 51-62).

Regarding claim 5, the method of claim 1 wherein said resource management operation comprises a restriction of access to a local file system on said first class object (Dugan: col. 34, lines 51- col. 35, line 14).

Regarding claim 6, the method of claim 1 wherein said resource management operation comprises a user-level control (Dugan: col. 14, lines 19-36).

Regarding claim 7, the method of claim 6 wherein said user-level control comprises:  
dividing a resource between one or more members of said active computing environment (Dugan: col. 10, lines 66- col. 11, line 13; col. 11, lines 23-42).

Regarding claim 8, a resource manager (Dugan: col. 13, lines 20-44, SA does the managing for the NMS defined in col. 12, lines 26-43) comprising:

an active computing environment (Dugan: col. 6, lines 2-21 defines the environment);  
a first class object configured to be obtained by promoting said active computing environment (Dugan: col. 12, lines 51-61; col. 35, lines 26-37); and

a resource manager configured to perform an operation on said first class object (Dugan: col. 13, lines 45-61).

Regarding claim 9, the resource manager of claim 8 wherein said resource manager assigns a guaranteed share of resources to said first class object (Dugan: col. 11, lines 23-42).

Regarding claim 10, the resource manager of claim 8 wherein said resource manager applies a resource management algorithm to said first class object (Dugan: col. 32, lines 35-54).

Regarding claim 11, the resource manager of claim 8 wherein said resource manager imposes a restriction of network access on said first class object (Dugan: col. 34, lines 51-62).

Regarding claim 12, the resource manager of claim 8 wherein said resource manager imposes a restriction of access to a local file system on said first class object (Dugan: col. 34, lines 51- col. 35, line 14).

Regarding claim 13, the resource manager of claim 8 wherein said resource manager has a user-level controller (Dugan: col. 14, lines 19-36).

Regarding claim 14, the resource manager of claim 13 wherein said user-level controller comprises:

a resource divider configured to divide a resource between one or more members of said active computing environment (Dugan: col. 10, lines 66- col. 11, line 13; col. 11, lines 23-42).

Regarding claim 15, a computer program product comprising:

a computer usable medium having computer readable program code embodied therein configured to manage resources with respect to an active computing environment (Dugan: col. 13, lines 20-44, SA does the managing for the NMS defined in col. 12, lines 26-43; col. 11, lines 7-13), said computer program product comprising:

computer readable code configured to cause a computer to encapsulate said active computing environment (Dugan: col. 6, lines 2-21 defines the environment; col. 12, lines 51-61; col. 35, lines 26-37);

computer readable code configured to cause a computer to promote said active computing environment to a first class object status (Dugan: col. 12, lines 51-61; col. 35, lines 26-37);

computer readable code configured to cause a computer to perform a resource management operation on said first class object (Dugan: col. 13, lines 45-61).

Regarding claim 16, the computer program product of claim 15 wherein said computer readable code configured to cause a computer to perform a resource management operation comprises a guaranteed share of resources (Dugan: col. 11, lines 23-42).

Regarding claim 17, the computer program product of claim 15 wherein said computer readable code configured to cause a computer to perform a resource management operation comprises a resource management algorithm (Dugan: col. 32, lines 35-54).

Regarding claim 18, the computer program product of claim 15 wherein said computer readable code configured to cause a computer to perform a resource management operation comprises a restriction of network access on said first class object (Dugan: col. 34, lines 51-62).

Regarding claim 19, the computer program product of claim 15 wherein said computer readable code configured to cause a computer to perform a resource management operation comprises a restriction of access to a local file system on said first class object (Dugan: col. 34, lines 51- col. 35, line 14).

Regarding claim 20, the computer program product of claim 15 wherein said computer readable code configured to cause a computer to perform a resource management operation comprises a user-level control (Dugan: col. 14, lines 19-36).

Regarding claim 21, the computer program product of claim 20 wherein said user-level control comprises: computer readable code configured to cause a computer to divide a resource between one or more members of said active computing environment (Dugan: col. 10, lines 66- col. 11, line 13; col. 11, lines 23-42).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin R Bruckart whose telephone number is (703) 305-0324. The examiner can normally be reached on 8:00-5:30 PM with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (703) 308-6662. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-0324.

Benjamin R Bruckart  
Examiner  
Art Unit 2155  
brb  
June 15, 2004

BRB

  
**HOSAIN ALAM**  
**SUPERVISORY PATENT EXAMINER**